



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,778	04/25/2008	David M. Shilliday	53982/333698	3868

23370 7590 03/17/2010

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

EXAMINER

FLEMING, FAYE M

ART UNIT	PAPER NUMBER
----------	--------------

3616

MAIL DATE	DELIVERY MODE
-----------	---------------

03/17/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/589,778	Applicant(s) SHILLIDAY ET AL.	
	Examiner Faye M. Fleming	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webber, et al. (6,152,481).

Webber discloses a protective device for an occupant of a vehicle comprising an inflatable cushion having first 150 and second 142 portions, the first portion being above and/or below the second portion when the vehicle is upright, and in which inflation of the second portion commences before inflation of the first portion. The second portion 142 comprises a material that decreases in length when inflated so as to create tension. The length-decreasing material is distributed substantially uniformly and continuously throughout the second portion. A bonded construction is used to manage the transfer of gas between the first and second sections without significant leakage. The first portion comprises at least one inflatable node adapted, when inflated, to be positioned at approximately head level of the occupant. The first portion 150 further comprises uninflated material 154 adjacent the at least one inflatable node. The device has an inflator 134 connected to the vehicle and to the second portion and capable of moving as the second portion inflates. The device has a cover (not shown), old and well known in the art, in which the inflatable curtain is positioned when uninflated. The material is braided and has generally circular or U-shaped cross-section, see figure 8 and col. 10, lines 28-31. The braided

Art Unit: 3616

material has a non-uniform shape, in order to improve deployment between the seat and the vehicle structure. The material forms a taut, semi-rigid, generally linear member when the first inflatable portion is inflated. The inflator 34 moves with the material when the inflatable curtain is pulled downward out of the cover.

With respect to the inflation of the airbags, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the inflatable portions inflate at any given time, since changing the way the airbag inflate is mere design choice and it would not change the function of the device.

3. Claims 1-9 and 14-16 rejected under 35 U.S.C. 103(a) as being unpatentable over Butters, et al. (6,517,110).

Butters discloses a protective device for an occupant of a vehicle comprising an inflatable cushion having first 12 and second 11 portions, the first portion being above and/or below the second portion when the vehicle is upright, and in which inflation of the second portion commences before inflation of the first portion. The second portion 11 comprises a material that decreases in length when inflated so as to create tension. The length-decreasing material is distributed substantially uniformly and continuously throughout the second portion. A bonded construction is used to manage the transfer of gas between the first and second sections without significant leakage. The first portion comprises at least one inflatable node adapted, when inflated, to be positioned at approximately head level of the occupant. The first portion 12 further comprises uninflated material 280 adjacent the at least one inflatable node, see figure 26. The

Art Unit: 3616

device has an inflator (not shown) connected to the vehicle and to the second portion and capable of moving as the second portion inflates. As shown in figures 1A and 1B, Butter discloses a cover 10 in which the inflatable curtain is positioned when uninflated.

With respect to the inflation of the airbags, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the inflatable portions inflate at any given time, since changing the way the airbag inflate is mere design choice and it would not change the function of the device.

Response to Arguments

1. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye M. Fleming whose telephone number is (571) 272-6672. The examiner can normally be reached on M-F (9:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (571) 272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3616

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Faye M. Fleming/
Primary Examiner, Art Unit 3616